

By: Madla, Deuell, Estes

S.B. No. 1137

A BILL TO BE ENTITLED

AN ACT

relating to the development of the wine industry in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 12, Agriculture Code, is amended by adding Section 12.039 to read as follows:

Sec. 12.039. CERTAIN WINE PRODUCED OR BOTTLED IN THIS STATE. (a) The Texas Wine Marketing Research Institute or other qualified entity shall conduct an annual study relating to the quantities and varieties of grapes and other fruit grown in this state that are used for wine making.

(b) Not later than October 15 of the study year, the Texas Wine Marketing Research Institute or other qualified entity shall submit a report to the commissioner. The report must include:

(1) the quantities and varieties of grapes and other fruit grown in this state that are available on September 30 of the study year for use in wine making;

(2) the needs of wineries in this state for those grapes and other fruit to meet the wineries' projected production estimates for the following calender year; and

(3) recommendations regarding the varieties of grapes and other fruit grown in this state for which a reduction in the percentage by volume of Texas grapes used should be granted under Subsection (c).

(c) The commissioner shall review the results of the study

and, if the commissioner determines that the quantity of a variety of grapes or other fruit grown in this state is insufficient for the wineries in this state to produce their projected production estimates during the following calendar year, the commissioner may reduce the percentage by volume of fermented juice of grapes or other fruit grown in this state that wine containing that particular variety of grape or other fruit must contain under Section 16.011, Alcoholic Beverage Code. The percentage established under this subsection must ensure that the use of that variety of grape or other fruit grown in this state is maximized while allowing for the acquisition of grapes or other fruit grown outside of this state in a quantity sufficient to meet the needs of wineries in this state.

(d) The commissioner shall submit the commissioner's determination to the Texas Alcoholic Beverage Commission in writing and publish the commissioner's determination in the Texas Register and on the department's website not later than December 31 of the study year.

(e) A requirement established under Subsection (c) applies to wine bottled under Section 16.011, Alcoholic Beverage Code, during the calendar year following the study year.

(f) If a winery in this state finds that the determination made by the commissioner under Subsection (c) does not reduce the percentage requirement with respect to a particular variety of grape or other fruit to a level sufficient for the winery to meet the winery's planned production for the relevant year, the winery may submit documentation or other information to the commissioner

1 substantiating that the winery has not been able to acquire those
2 grapes or other fruit grown in this state in an amount sufficient to
3 meet the winery's production needs. If the commissioner determines
4 that there is not a sufficient quantity of that variety of grapes or
5 other fruit grown in this state to meet the needs of that winery,
6 the commissioner may reduce the percentage requirement for wine
7 bottled during the remainder of the calendar year that contains
8 that variety of fruit.

9 (g) The commissioner may:

10 (1) establish a voluntary registry for vineyards and
11 other fruit growers in this state to assist in the determination of
12 the availability of grapes and other fruit grown in this state and
13 facilitate communication between the wineries and fruit growers in
14 this state regarding the availability of and need for grapes and
15 other fruit for wine making; and

16 (2) assess a fee to cover the cost of administering the
17 registry;

18 (h) Information gathered through a registry established
19 under Subsection (g) shall be posted on the department's website
20 and may be made available in any other format agreed upon by the
21 commissioner and a requestor who pays the appropriate fee for
22 reproducing the record;

23 (i) Fees collected under Subsection (g)(2) are to be
24 deposited in an account in the General Revenue fund to be used by
25 the Department of Agriculture solely for administering the Vineyard
26 and Fruit Growers Registry;

27 (j) Money in the Vineyard and Fruit Growers registry

1 Dedicated General Revenue account shall be appropriated to the
2 Department of Agriculture to cover administrative and personnel
3 costs of the Department of Agriculture associated with
4 administering the registry.

5 SECTION 2. Title 3, Agriculture Code, is amended by adding
6 Chapter 50B to read as follows:

7 CHAPTER 50B. TEXAS WINE INDUSTRY

8 DEVELOPMENT ACT

9 Sec. 50B.001. FINDINGS AND PURPOSE. The legislature finds
10 that:

11 (1) it is in the public interest to encourage the
12 orderly growth and development of sustainable labor-intensive,
13 value-added agricultural industries such as the wine grape growing
14 and wine making industries;

15 (2) the production and distribution of wine and
16 wine-related products constitute an important industry of this
17 state that stimulates tourism and provides substantial and
18 necessary revenues for the state and employment for the state's
19 residents and provides an important food that benefits the public
20 health and welfare; and

21 (3) it is vital to the continued economic well-being
22 and general welfare of the citizens of this state that the state's
23 wine grapes and wine be properly promoted by:

24 (A) enabling the wine industry in this state to
25 help itself in establishing orderly, fair, sound, efficient, and
26 unhampered marketing of wine grapes and the wines they produce; and

27 (B) working to stabilize the wine industry in the

1 state by increasing markets for wine grapes and wine within the
2 state, the nation, and internationally.

3 Sec. 50B.002. WINE INDUSTRY DEVELOPMENT; ADVISORY
4 COMMITTEE. The commissioner may appoint a wine industry
5 development advisory committee to develop a long-term vision and
6 marketable identity for the wine industry in the state which
7 considers future industry development, funding, research,
8 educational programming, risk management, and marketing.

9 SECTION 3. Section 16.011, Alcoholic Beverage Code, is
10 amended to read as follows:

11 Sec. 16.011. PREMISES IN DRY AREA. A winery permit may be
12 issued for premises in an area in which the sale of wine has not been
13 authorized by a local option election. A holder of a permit under
14 this section may engage in any activity authorized under Section
15 16.01 except that the permit holder may sell or dispense wine under
16 that section only if the wine is:

- 17 (1) bottled ~~[manufactured]~~ in this state; and
18 (2) at least 75 percent by volume fermented juice of
19 grapes or other fruit grown in this state or a lesser percentage
20 established by the commissioner of agriculture under Section
21 12.039, Agriculture Code.

22 SECTION 4. Chapter 16, Alcoholic Beverage Code, is amended
23 by adding Section 16.05 to read as follows:

24 Sec. 16.05. OPERATING AGREEMENTS BETWEEN PERMIT
25 HOLDERS. (a) The holder of a winery permit may engage in any
26 activity authorized by that permit on the permitted premises of
27 another winery permit holder under an agreement between the permit

1 holders that is approved by the commission and that describes with
2 specificity the nature, duration, and extent of the activities
3 authorized by the agreement.

4 (b) The commission shall adopt rules regulating the shared
5 use of winery premises under this section to ensure administrative
6 accountability of each permit holder and a strict separation
7 between the businesses and operations of the permit holders.

8 SECTION 5. Subchapter A, Chapter 108, Alcoholic Beverage
9 Code, is amended by adding Section 108.09 to read as follows:

10 Sec. 108.09. CERTAIN ADVERTISING BY WINERY.
11 Notwithstanding Section 102.07 or any other provision of this code,
12 a winery may include information in the winery's advertising that
13 informs the public of where the winery's products may be purchased.

14 SECTION 6. Subchapter D, Chapter 391, Transportation Code,
15 is amended by adding Section 391.099 to read as follows:

16 Sec. 391.099. TOURIST-ORIENTED DIRECTIONAL SIGN PROGRAM.

17 (a) In this section:

18 (1) "Eligible facility" means a winery, business,
19 service, or activity facility, including a farm, ranch, or other
20 tourist activity, that:

21 (A) derives a portion of its income or visitors
22 during the normal business season from highway users not residing
23 in the area of the facility;

24 (B) complies with state and federal laws relating
25 to:

26 (i) provision of public accommodation
27 without regard to race, religion, color, age, sex, or national

1 origin; and

2 (ii) licensing and approval of service
3 facilities; and

4 (C) is located within ten miles of an
5 intersection with an eligible highway.

6 (2) "Eligible highway" means a highway that has
7 noncontrolled access; and

8 (A) is outside the corporate limits of a
9 municipality.

10 (B) is located within the corporate limits of a
11 municipality if the governing body of the municipality approves the
12 participation of the municipality in the program created under this
13 section.

14 (3) "Tourist-oriented directional sign" means a sign
15 that identifies a particular winery, business, service, or activity
16 and identifies the type or nature of the winery, business, service,
17 or activity available by use of an icon, symbol, or other
18 identifying device.

19 (4) "Trailblazing" means placing multiple signs along
20 a route or routes directing the public to a specific location.

21 (b) The commission shall administer the tourist-oriented
22 directional sign program created under this section to erect and
23 maintain tourist-oriented directional signs on eligible highways.

24 (c) Except as provided by Subsection (f), the commission
25 shall:

26 (1) regulate the content, composition, design,
27 placement, erection, and maintenance of tourist-oriented

1 directional signs and supports on eligible highway rights-of-way;

2 (2) adopt rules necessary to administer and enforce
3 this section; and

4 (3) approve an application submitted under this
5 section before the 61st day after the date the eligible facility
6 submitted the application.

7 (d) The commission shall enter into one or more contracts
8 with and individual, firm, group, or association in this state to
9 erect and maintain tourist-oriented directional signs at locations
10 along eligible highways.

11 (e) A contract und this section shall provide for:

12 (1) the assessment of fees to be paid to a contractor
13 by an eligible facility; and

14 (2) remittance to the department of a portion of the
15 fees collected by the contractor in an amount sufficient to recover
16 the department's costs of administering the program.

17 (f) The commission may not adopt rules under this section
18 that:

19 (1) limit the number of tourist-oriented directional
20 signs an eligible facility may receive;

21 (2) prohibit the erection of a tourist-oriented
22 directional sign for an eligible facility on more than one highway;
23 or

24 (3) prohibit an eligible facility from receiving a
25 tourist-oriented directional sign based on trailblazing or the
26 number of turns off of a highway it takes to reach the location of
27 the facility.

1 SECTION 7. Section 16.08(c), Alcoholic Beverage Code, is
2 repealed.

3 SECTION 8. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2005.